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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELANIE MACNIVEN,

Plaintiff,

v.

JO ANNE B. BARNHART,  
Commissioner of  
Social Security,

Defendant.

CASE NO. **2:04-CV-02401-GEB-CMK**

STIPULATION AND [proposed] ORDER  
SETTLING ATTORNEY'S FEES AND  
COSTS PURSUANT TO THE EQUAL  
ACCESS TO JUSTICE ACT

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that counsel for Plaintiff be awarded attorney's fees under the Equal Access to Justice Act (EAJA) in the amount of FOUR THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$4,500.00), and costs in the amount of ONE HUNDRED FIFTY AND 00/100 DOLLARS (\$150.00), said amounts together representing compensation for legal services rendered on behalf of Plaintiff by her attorney in accordance with 28 U.S.C. § 2412(d).

This stipulation constitutes a compromise settlement of counsel for Plaintiff's request for all fees, costs, and expenses under the EAJA, and does not constitute an admission of liability on the part of Defendant under the EAJA. Payment in the amount of FOUR THOUSAND FIVE HUNDRED

1 AND 00/100 DOLLARS in fees (\$4,500.00) and ONE HUNDRED FIFTY AND 00/100 DOLLARS  
2 (\$150.00) in costs, shall constitute a complete release from and bar to any and all claims counsel for  
3 Plaintiff may have relating to EAJA fees, costs, and expenses in connection with this action, but such  
4 award will not prejudice any future request for attorney's fees under the Social Security Act, 42  
5 U.S.C. § 406(b).  
6

7 The parties further stipulate that counsel for Plaintiff will provide a facsimile of this  
8 stipulation bearing counsel's signature for retention in Defendant's case file, and hereby authorizes  
9 counsel for Defendant to file this document in PDF format under the latter's Electronic Case Filing  
10 password, pursuant to Local Rule 7-131.  
11

12 DATED: January 18, 2006

/s/ Ann M. Cerney  
ANN M. CERNEY

Attorney for Plaintiff

16 DATED: January 18, 2006

McGREGOR W. SCOTT  
United States Attorney

19 By: /s/ Bobbie J. Montoya  
BOBBIE J. MONTOYA  
Assistant U. S. Attorney

Attorneys for Defendant

22 OF COUNSEL

23 LUCILLE GONZALES MEIS  
24 Chief Counsel, Region IX

25 NANCY M. LISEWSKI  
26 Assistant Regional Counsel

27 U. S. Social Security Administration  
28

Re: MELANIE MACNIVEN v. JO ANNE B. BARNHART, Case No. 2:04-CV-02401-GEB-CMK, Stipulation and Order  
Settling Attorney's Fees and Costs Pursuant to the Equal Access to Justice Act

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**ORDER**

Upon stipulation of the parties, Counsel for Plaintiff in CASE NO. 2:04-CV-02401-GEB-CMK, MELANIE MACNIVEN v. Jo Anne B. Barnhart, is hereby awarded attorney fees in the amount of \$4,500.00 and costs in the amount of \$150.00, pursuant to the Equal Access to Justice Act.

**APPROVED AND SO ORDERED.**

**Dated: January 25, 2006**

/s/ Garland E. Burrell, Jr.  
GARLAND E. BURRELL, JR.  
United States District Judge